

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C

RECEIVED  
OCT 13 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:

AMENDMENT OF §73.202(B)  
FM TABLE OF ALLOTMENTS

*For a Change in Reference Coordinates*  
**Channel 282A, Charlestown, IN**

) MM DOCKET No.

) RM

-DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch, Policy and Rules Division

**PETITION FOR RULE MAKING**

NEON COMMUNICATIONS, INC. ("NCI"), by Counsel, and pursuant to §1.401 of the Commission's Rules, hereby respectfully submits its Petition for Rule Making to amend the FM Table of Allotments, §73.202(b) of the Commission's Rules, to change the reference coordinates specified for Channel 282A, at Charlestown, Indiana to the following coordinates:

**NL 38° 31' 40" x WL 85° 40' 05"**

In support whereof, the following is shown:

**PRELIMINARY STATEMENT**

1. NCI is the Licensee of Radio Station WQLL (FM), Louisville, Kentucky, which operates on Channel 280A. Because of short spacing to the reference coordinates of Channel 282A in Charlestown, Indiana, WQLL must operate with less than maximum Class A facilities. Petitioner wishes to upgrade the facilities of Station WQLL (FM) to a maximum Class A facility, to operate at 6 kilowatts. The proposed change in reference coordinates for Channel 282A at Charlestown, Indiana, as set forth in the attached Engineering Statement<sup>1</sup> will

<sup>1</sup>Exhibit E, attached hereto.

No. of Copies rec'd  
List A B C D E

0x4

mmb

permit NCI to implement an upgrade of facilities at its own Station at Louisville, Kentucky. If this rule making petition is granted, NCI also intends to apply for the vacant allotment in Charlestown, Indiana.

### **COMPLIANCE WITH ALLOCATIONS AND TECHNICAL RULES**

2. The Allotment for Channel 282A in Charlestown, Indiana is now vacant. The Commission ordered the cancellation of the outstanding construction permit for that held by Robert M. Mason.<sup>2</sup> Accordingly, the proposed change in reference coordinates for Channel 282A in Charlestown, Indiana is now possible. A channel allocation study demonstrating the feasibility of operation from the proposed reference coordinates is attached.<sup>3</sup> The channel allotment for 282 at Charleston will remain a Class A facility. A station operating at the proposed reference coordinates for Channel 282A will place the required minimum city-grade field strength signal over the entire community of Charlestown, Indiana.

### **PUBLIC INTEREST CONSIDERATIONS**

3. Changing the reference coordinates for Channel 282A as proposed herein will eliminate short-spacing to that allotment from WQLL (FM), Louisville, Kentucky, (thereby permitting the proposed upgrade in Station WQLL (FM)), and will reduce existing short spacing to meet the minimum spacing requirements in §73.213(c)(1) of the rules with respect to Stations WXBC (FM), Hardinsburg, Kentucky, and WNTL (FM), Harrison, Ohio. The existing spacing deficiencies are the result of the October 1, 1989 revision of 47 C.F.R. §73.207. No new or greater short spacing will be created in any direction.

---

<sup>2</sup>Letter Ruling dated May 17, 1994 (Ref. BMPH-881121TA); Official Notice Requested.

<sup>3</sup>See Exhibit E.

4. Second, modification of the Charleston, Indiana coordinates will permit an upgrade of the Station WQLL (FM) facilities to maximum Class A facilities. This will result in an increase in coverage by WQLL from 1900 to 2470 square kilometers (a net gain of 570 km<sup>2</sup>), and an increase in population coverage from 830,600 to 851,400 persons ( net gain of 20,800 persons).<sup>4</sup>

#### **STATEMENT OF INTEREST IN CHARLESTOWN ALLOTMENT**

5. NCI hereby declares its intent to apply for a construction permit for Channel 282A at Charlestown, Indiana, as soon as the Commission grants the instant Petition and announces a filing window for the Channel at the new reference coordinates. To implement the proposed upgrade in Station WQLL (FM), Louisville, Kentucky, NCI is also filing, simultaneously with this Petition, an Application for Modification of WQLL (FM) at its present site, subject to the outcome of this proceeding.<sup>5</sup>

#### **CONCLUSION**

6. Good cause is demonstrated for grant of the instant Petition. The proposed change in reference coordinates: (1) will reduce short-spacing deficiencies created by the 1989 changes in §73.207 of the Rules; (2) will enable NCI to upgrade its facilities at Station WQLL (FM) to provide maximum Class A service and wider-area coverage to a greater number of people; (3) will reduce short spacing to two other FM Stations; (4) will not result in any loss of city-grade coverage to Charlestown, Indiana; (5) will not unduly restrict site selection; and

---

<sup>4</sup>See Engineering Statement.

<sup>5</sup>Engineering counsel has had informal discussions with the FM Branch Staff as well as the Allocations Branch Staff and has been advised that such simultaneous filing would be an acceptable, and the most expeditious procedure.

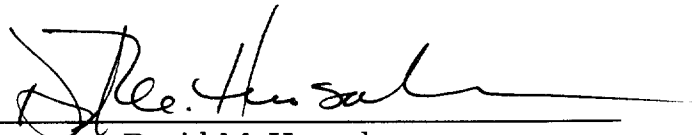
(6) will eventually result in new first local transmission service to Charlestown, Indiana.

**WHEREFORE**, the foregoing premises considered, NCI respectfully requests that the Commission GRANT the instant Petition for Rule Making, and AMEND §73.202(b) FM Table of Allotments, by CHANGING the reference coordinates for Channel 282A, Charlestown, Indiana to the following:

**NL 38° 31' 40" x WL 85° 40' 05"**

Respectfully submitted,

**NEON COMMUNICATIONS, INC.**

By:   
David M. Hunsaker

Its Attorney

October 13, 1994

*Law Offices*  
**PUTBRESE & HUNSAKER**  
6800 Fleetwood Road, Suite 100  
P.O. Box 539  
McLean Virginia 22101-0539  
(703) 790-8400

**EXHIBIT E  
ENGINEERING STATEMENT  
IN SUPPORT OF A  
PETITION FOR RULE MAKING**

**INTRODUCTION**

This engineering statement was prepared on behalf of Neon Communications, Inc. (the "Petitioner"). It supplies technical information in support of a Petition for Rule Making to change the reference coordinates specified for the allotment of Channel 282A to Charlestown, Indiana as described in MM Docket No. 84-231. The reference site can be changed as a result of a Commission action on May 17, 1994 that ordered the cancellation of the outstanding construction permit held by Robert M. Mason for the Charlestown allotment.

The Petitioner is the licensee of radio station WQLL, Channel 280A, Louisville, Kentucky. The proposed change in reference coordinates of the Charlestown allotment will permit WQLL to upgrade its facilities to a maximum Class A facility. The upgrade will increase the area and population within the present 1.0 mV/m contour of WQLL from 1900 to 2470 sq. km and from 830,600 to 851,400 total population. An application in support of a construction permit to increase facilities at the present WQLL site is being filed concurrently with this Petition. It is also the intent of the Petitioner to apply for the Charlestown allotment as soon as the Commission announces a filing window.

## **ALLOCATION STUDY**

The present reference site for the Charlestown allotment on Channel 282A is currently short-spaced with the following stations: WQLL in Louisville, KY; WXBC in Hardinsburg, KY; and WNTL in Harrison, OH. The site became short-spaced as a result of the October 1, 1989 revision of §73.207 in Second Report and Order in MM Docket No. 88-375. The proposed reference site will eliminate the spacing deficiency with station WQLL and will meet the minimum spacing requirements in §73.213(c)(1) of the FCC Rules with respect to stations WXBC and WNTL. Accordingly, the allotment will remain a 3.0 kW Class A assignment under the FCC Rules governing grandfathered short-spaced stations.

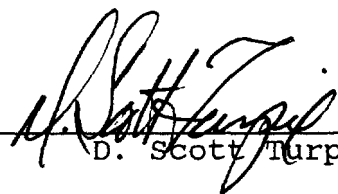
The geographic coordinates of the proposed reference location are North 38° 31' 40" and West 85° 40' 05". A channel allocation study from those coordinates is attached to this statement as Figure 1.

## **PRINCIPAL COMMUNITY COVERAGE**

The required minimum field strength of 3.16 mV/m (70 dBu) can be provided over the entire community of Charlestown from the proposed reference location. The average distance to the 3.16 mV/m contour for a Class A station operating with 3.0 kW at an antenna radiation center height of 100 meters above average terrain is 13.5 kilometers. Since the reference location is approximately 8 kilometers north of Charlestown and there are no terrain obstructions between the reference coordinates and the community of Charlestown, this proposal is consistent with the transmitter

location requirements set forth in §73.315(a) of the Commission's Rules. A map showing an area where a transmitter could be located and meet the Commission's minimum distance separation requirements and provide the necessary contour coverage to Charlestown is attached as Figure 2.

Respectfully submitted,  
LOHNES AND CULVER

by   
D. Scott Turpie

October, 1994

**FIGURE 1**  
**ALLOCATION STUDY**  
**CH. 282 CLASS A ALLOTMENT**  
**CHARLESTOWN, INDIANA**

CHANNEL CLASS	STATION		LOCATION CITY, STATE	SEPARATION IN KILOMETERS	
	CALL	STATUS		ACTUAL <sup>(1)</sup>	REQUIRED <sup>(2)</sup>
228	No stations within required separation plus 50 km				
229B	WQKC	LIC	Seymour, IN	65.8	15
279A	WKED-FM	LIC	Frankfort, KY	74.1	31
279B	WFIU	LIC	Bloomington, IN	99.0	69
280A	WQLL	LIC	Louisville, KY	31.2	31
281C3	WCKQ	CP	Campbellsville, KY	134.8	89
282A	WXBC	LIC	Hardinsburg, KY	107.6	105 <sup>(3)</sup>
282A	WNLT	LIC	Harrison, OH	107.9	105 <sup>(3)</sup>
283C2	WJGG	CPM	Lexington-Fayette, KY	127.9	106
283B	WGRL	LIC	Indianapolis, IN	152.2	113
284B	WITZ-FM	LIC	Jasper, IN	112.8	69
285A	WKYW	LIC	Frankfort, KY	74.0	31
285A	WWWY	LIC	Columbus, IN	77.3	31

Proposed site coordinates: 38° 31' 40" 85° 40' 05"

Notes: <sup>(1)</sup>Calculated distance separation between stations in accordance with Section 73.208 of the FCC Rules.

<sup>(2)</sup>Required minimum distance separation between stations pursuant to Section 73.207, except where the provisions in Section 73.213 apply.

<sup>(3)</sup>Required minimum distance separation between grandfathered short-spaced stations in Section 73.213(c)(1) (stations that became short-spaced as a result of the revision of Section 73.207 in the Second Report).

Prepared by  
Lohnes and Culver Washington, D.C.  
October, 1994



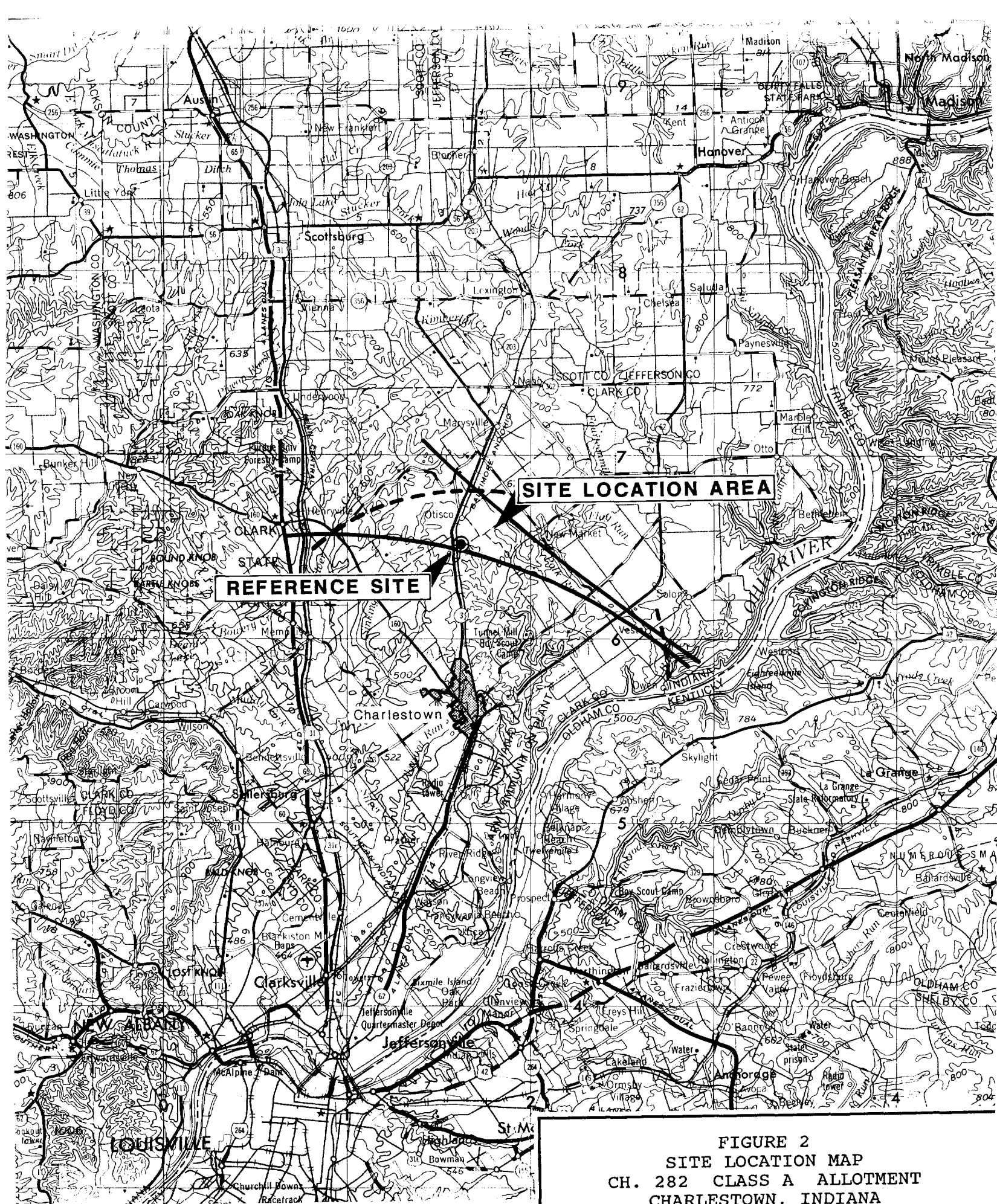


FIGURE 2  
SITE LOCATION MAP  
CH. 282 CLASS A ALLOTMENT  
CHARLESTOWN, INDIANA

Prepared by  
Lohnes and Culver Washington, D.C.  
October, 1994

